



Comptroller General
of the United States

Washington, D.C. 20548

Lieberman

Decision

Matter of: The Forestry Association, Inc.
File: B-237084
Date: October 6, 1989

DIGEST

The General Accounting Office will not review an affirmative responsibility determination absent a showing of possible fraud or bad faith or that definitive responsibility criteria were not applied.

DECISION

The Forestry Association, Inc., protests the award of a contract to Fox Forestry under request for quotations No. RFQ-10-89-31, issued by the Forest Service, U.S. Department of Agriculture, for services in the Santa Fe National Forest. Forestry Association contends that Fox is not a responsible firm.

We dismiss the protest pursuant to our Bid Protest Regulations. 4 C.F.R. § 21.3(m) (1989).

Forestry Association alleges that Fox does not provide workers' compensation insurance for its personnel, does not pay state sales and gross receipts tax, and neither pays nor withholds employee taxes such as social security, or state or federal income tax. Forestry Association contends that since it brought these matters to the attention of the contracting officer, the contracting officer should have found Fox to be nonresponsible and forwarded that determination to the Small Business Administration (SBA), for consideration under its certificate of competency (COC) procedures.

By asking our Office to find that a referral to SBA was required, the protester in effect is asking us to review the contracting officer's determination that Fox is a responsible firm. We do not review an affirmative determination of responsibility, however, absent a showing that such determination was made fraudulently or in bad faith or that definitive responsibility criteria in the

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solicitation were misapplied. 4 C.F.R. § 21.3(m)(5);
Urethane Prods. Corp., B-234694, May 25, 1989, 89-1 CPD
¶ 508. No such showing has been made here.

While the protester contends that the contracting officer acted in bad faith by not finding Fox nonresponsible and referring the matter to SBA for COC consideration in the face of the protester's contentions regarding Fox's alleged noncompliance with various tax and labor law requirements, we see no basis for such a conclusion. In our view, the contracting officer was not required to find the awardee nonresponsible simply on the basis of unsupported statements from Forestry Association, a disappointed offeror. See The Forestry Assoc., Inc., B-236240, Sept. 28, 1989, 89-2 CPD



Robert M. Strong
Associate General Counsel